

Attached hereto is a copy of the Attorney General's letter to me.

Respectfully,

THEODORE R. MCKELDIN,

Governor

TRMcK :mm

April 23, 1951

Honorable Theodore R. McKeldin
Governor of Maryland
Annapolis, Maryland

Re: House Bill No. 346

Dear Governor McKeldin:

House Bill No. 346 adds three new Sections to Article 2A of the Code, to be under a new sub-title "Solicitation of Farm Labor", and prohibits the solicitation of farm labor within the 23 Counties for use beyond the State without the obtention of a permit in writing from the State Administration Office of the Employment Service Division of the State Department of Employment Security or its local representative. The Bill makes the solicitation of such labor without a permit a misdemeanor.

The first matter that comes to mind is that there is no standard, even implied, as to what shall govern the granting or withholding of such a permit. It is apparently left to the discretion or lack of it of the agency involved.

It is obvious that the problem with which the statute attempts to deal is a situation on the Eastern Shore where truck farmers are badly in need of keeping their transient workers in the County in the face of substantially higher wage offers of New Jersey and Delaware truck farmers. Similar statutes have been passed in a number of southern States and have been approved in two decisions—one is *Williams v. Fears*, 179 U.S. 270. In that case, however, the issuance of the permit was mandatory upon payment of the stated fee which was higher than the fee required for solicitation of labor for use within the State. The Virginia statute was upheld in *Cole v. Commonwealth*, 193 S.E. 517 (1937). In this case also the basis of classification found valid by the Court was the difference in fee for solicitation without the State and within the State. In the light of these cases, four grounds of possible unconstitutionality present themselves:

The first is the interference with interstate commerce. Under the Bill, a county agent could exclude all solicitation, including newspaper and radio advertising.

Second, the Bill may deny the equal protection of the law to out-of-state solicitors. For example, under the Act, a solici-